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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,409	12/29/2000	Atul N. Hatalkar	10559-358001/P10035	7822
7590	06/07/2004			EXAMINER
SCOTT C. HARRIS Fish & Richardson P.C. Suite 500 4350 La Jolla Village Drive San Diego, CA 92122			COFFY, EMMANUEL	
			ART UNIT	PAPER NUMBER
			2157	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/751,409	HATALKAR, ATUL N.
	Examiner	Art Unit
	Emmanuel Coffy	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 December 2000.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 29 December 2000 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

1. This action is responsive to the application filed on December 29, 2000. Claims 1-25 are pending. Claims 1-25 are directed to a method, an article, an apparatus and system for a "Broadcast Communication System With Dynamic Client-Group Membership."

Specification

2. The Abstract of the disclosure is objected to because it begins with language that can be implied. Correction is required. See MPEP § 608.01 (b). The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes etc..." In this case the language: "In an embodiment" can be implied.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 8, 15 and 23 are rejected under the judicially created doctrine of double patenting over claims 2, 8, 18, and 22 of U. S. Patent Application No. 09/753086 since the claims, if allowed, would improperly extend the "right to exclude" sought in above application.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claimed invention is somewhat a different recitation of application no. 09/753086. Moreover, claims 1, 8, 18 and 22 of the present invention and claims 2, 8, 18 and 22 of application no. 09/753086 are similar except for the following distinctions:

As to claim 1, the present invention recites an "expiration indicator" associated with first and second group. Application no. 09/753086 recites the limitations of claim 1 of the present invention in its claim 2 leaving out the "expiration indicator" limitation.

However, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art confronted with the problem of controlling membership that lapses within a certain time period to add an expiration indicator.

As to claim 8, the same reasons given above apply.

As to claim 15, the present invention recites a "first and second expiration indicator" and a clock. Application no. 09/753086 recites the limitations of claim 15 of the present invention in its claim 14 leaving out the "expiration indicator" limitation and the clock.

However, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art confronted with the problem of controlling membership that lapses within a certain time period to add an expiration indicator. Furthermore, a computer does not operate without a clock.

As to claim 19, the present invention recites an "expiration indicator" and again a clock upon which a group controller operates to delete expired membership. Application no. 09/753086 recites the limitations of claim 19 of the present invention in its claim 19 leaving out the "expiration indicator" limitation and the clock upon which a group controller operates but adding a transmission controller transmitting the group member file to a plurality of client devices.

However, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art confronted with the problem of controlling membership that lapses within a certain time period to add an expiration indicator. Furthermore, to transmit file to a device at scheduled intervals would be obvious should the need arises. Finally, a computer does not operate without a clock.

As to claim 23, the present invention recites an "expiration indicator" associated with "group identifier" and again a clock to output current time. Application no.

09/753086 recites the limitations of claim 23 of the present invention in its claim 22 leaving out the "expiration indicator" limitation and the clock.

However, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art confronted with the problem of controlling membership that lapses within a certain time period to add an expiration indicator. Furthermore, a computer does not operate without a clock.

As to the dependent claims, the limitations are either found in the above cited application or they are not patentably distinct to warrant particular attention. The same reasoning applies.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The above mentioned claim recites at line 6 "transmitting a group membership file at a host..." Such task would normally be referred to as being performed from a host. Applicant therefore, fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Hence, the scope of the claim is unascertainable. However, in order to provide a more complete examination the Examiner asserts that this invention is understood as: "transmitting a group membership file from a host...."

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rochberger (US 6,262,984) in view of Attanasio et al (US 6,496,866).

As for claim 1, it recites storing, transmitting, updating membership and associating a first, second group identifiers to a first, second group and a first, second expiration indicators. Rochberger teaches storing membership data at a client having a client identification at col. 9, lines 8-10, transmitting a group membership file at a host at col. 2, lines 51-61, and updating the membership data at the client at col. 3, lines 15-23. Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Attanasio does teach about purging a connection table when the amount of time has expired (See column 5, lines 8-11).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the dynamic updating function disclosed by Attanasio.

Such a system would prevent overlapping branches resulting in an optimized network. Therefore, claim 1 is rejected.

Claim 2:

It recites examining the first expiration indicator to determine if membership in the first group has expired; and deleting the first expiration indicator and the first group identifier in response to a determination that membership in the first group has expired. This limitation is explicitly taught by Attanasio at column 5, lines 8-11. (See Fig. 8).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the dynamic updating function disclosed by Attanasio. Such system would prevent unnecessary requests thus resources are better utilized. Therefore, claim 2 is rejected.

Claim 3:

It recites receiving the group membership file at the client; comparing the member identifier to the client identification; and storing the second group identifier and the second expiration indicator at the client in response to the member identifier matching the client identification. Rochberger teaches receiving the message at the client at column 2, lines 51-61, storing the second group identifier at column 9 Tables: Node ID, Peer Group ID, Node Address. Rochberger does not explicitly suggest the comparison limitation. However, Attanasio does teach about the comparison function performed by a VEC router at column 5, lines 17-25.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the comparison function disclosed by Attanasio. An efficient system

is architected when a connection is properly routed within the least amount of time. A user enjoys an optimized network. Therefore, claim 3 is rejected.

Claim 4:

It recites a group membership file which includes the first group identifier and two or more member identifiers associated with the first group identifier, and wherein updating the membership data comprises: comparing each of said member identifiers to the client identification; and deleting the first group identifier and the first expiration indicator in response to the client identification matching one of said member identifiers.

This claim is rejected for the same reasons evoked above in claims 2 and 3.

Claim 5:

It recites the limitation of an expiration indicator, which comprises a date. Rochberger does not explicitly teach this limitation. However, Attanasio does teach about an arbitrary policy defining new metrics to be considered for management of the connections.(See column 7 line 67-column 8, line 3). Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with this arbitrary policy function disclosed by Attanasio. This system allows better management of the connections by eliminating extraneous data. Therefore, claim 5 is rejected.

Claim 6:

It recites the limitation of an expiration indicator, which comprises a time. Rochberger does not explicitly teach this limitation. However, Attanasio does teach about time stamping at column 5 line 2-4. Hence, it would have been obvious at the

time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with this time stamping function disclosed by Attanasio. Therefore, claim 6 is rejected.

Claim 7:

It recites transmitting a message including a payload and a transmitted group identifier; receiving the message at the client; and extracting the payload from the message in response to the first group identifier matching the transmitted group identifier. Rochberger teaches about the transmission limitation at column 1, lines 44-57. (headers are identifiers and the payload is the data as defined by ATM protocol). . . . Rochberger further teaches the receiving and extracting limitations at column 2, lines 51-61 and column 3, lines 5-15 respectively.

As for claims 8-25, they do not teach or define any significantly new limitation above and beyond claims 1-7 to warrant particular treatment, and therefore are rejected for similar reasons.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Lemaire et al. (U.S. 5,594,658) teaches "Communications System For Multiple Individually Addressed Messages."

- Moiin (U.S. 6,108,699) teaches "System and Method For Modifying Membership In a Clustered Distributed Computer System And Updating System Configuration."
- Modiri et al. (U.S. 6,192,401) teaches "System and Method For Determining Cluster Memebership In a Heterogeneous Distributed System."
- Banavar et al. (U.S. 6,336,119) teaches "Method and System For Applying Cluster-Based Group Multicast to Content-Based Publish-Subscribe System."
- Passman et al. (U.S. 6,493,759) teaches "Cluster Head Resignation to Improve Routing In Mobile Communication Systems."
- Article by Alberto Bartoli published in 1998 in Mobile Networks and Applications 3, pages 175-188 titled:"Group-based multicast and dynamic membership in wireless networks with incomplete spatial coverage."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Coffy whose telephone number is (703) 305-0325. The examiner can normally be reached on 8:30 - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emmanuel Coffy
Patent Examiner
Art Unit 2157

EC
May 15, 2004



ARI ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100